

COPY

## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF DELAWARE

|                       |   |                     |
|-----------------------|---|---------------------|
| NINA SHAHIN,          | ) |                     |
|                       | ) |                     |
| Plaintiff,            | ) |                     |
|                       | ) |                     |
| v.                    | ) | C.A. No. 06-289 GMS |
|                       | ) |                     |
| STATE OF DELAWARE     | ) |                     |
| DEPARTMENT OF FINANCE | ) |                     |
|                       | ) |                     |
| Defendant,            | ) |                     |

CLERK U.S. DISTRICT COURT  
 FILED  
 DISTRICT OF DELAWARE  
 2007 JUL 20 PM/2:52

**PLAINTIFF'S MOTION FOR COURT ORDER OF WAIVER OF COSTS IN  
 PLAINTIFF'S REQUEST TO THE DELAWARE DEPARTMENT OF  
 ACCOUNTING FOR INFORMATION IN COMPLIANCE WITH DELAWARE  
 FOIA**

The Plaintiff, Nina Shahin, files this Motion to ask the court to approve her request for waiver of costs associated with her request to the Department of Accounting for information on the amounts the State received from federal government and terms on which those monies were given to the State of Delaware.

On July 5, 2007 the Plaintiff filed a request with the Department of Accounting for information related to the monies the State received in 2004 from the federal government and information contained in the Delaware Comprehensive Annual Financial Report (CAFR) (Exhibit A).

The Plaintiff received a response from the Director of Accounting Department asking for \$ 682.50 to pay for the research and copying (Exhibit B). The Plaintiff does not have such an amount and proceed with this case in Forma Pauperis. Section 10003(b) of the Delaware FOIA mentions only copying costs and the Plaintiff did not ask for any

copies of any documents. Yet the Plaintiff needs the requested information to justify her claim in her Opening Brief for the waiver of the State Sovereign Immunity under the doctrine of federal power of a spending purse.

The Plaintiff, therefore, respectfully asks this court for an order ~~for~~ a waiver of these costs.

Submitted on this day of 18<sup>th</sup> of July, 2007.

**PLAINTIFF**

  
**NINA SHAHIN**

**103 Shinnecock Rd.  
Dover, DE 19904  
(302)678-1805**

**DATED: July 18, 2007**

***CERTIFICATE OF MAILING AND/OR DELIVERY***

The undersigned certifies that on July 18, 2007, she caused the attached Plaintiff's *Motion For Court Order Of Waiver Of Costs In Plaintiff's Request To The Delaware Department Of Accounting For Information In Compliance With Delaware FOIA* to be delivered to the following persons in the form and manner indicated:

**NAME AND ADDRESS OF RECIPIENTS:**

1. **U.S. District Court**  
844 King Street  
U.S. Courthouse  
Wilmington, DE 19801

**MANNER OF DELIVERY:**

Original and a copy by certified mail with return receipt

2. **Stephani J. Ballard, # 3481**  
Deputy Attorney General  
Department of Justice  
State of Delaware  
Carvel State Office Building  
820 North French Street, 6<sup>th</sup> fl.  
Wilmington, DE 19801  
Attorney for Defendant

**MANNER OF DELIVERY:**

Two true copies by first class mail with confirmation of receipt

N. Shahin

Nina Shahin

July 18, 2007

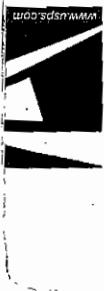
Nina Shahin, CPA, MAS, M  
103 Shinnecock Rd,  
Dover, DE 19904



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844 King Street  
U.S. Courthouse  
Wilmington, DE 19801



NINA SHAHIN, CPA, MAS, MST  
103 SHINNECOCK RD. DOVER, DE 19904

Tel. (302) 678-1805

RECEIVED

FAX (302) 678-0219

2007 JUL 27 P 3:17

E-mail: [nshahin@comcast.net](mailto:nshahin@comcast.net)

103 Shinnecock Rd.

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July 5, 2007

Director of Accounting  
540 South DuPont Highway  
Thomas Collins Building, Suite 3  
Dover, DE 19901

Dear Ms Neely:

In accordance with my right as a citizen of Delaware and in compliance with the Freedom of Information Act I would like to obtain some additional information regarding the Comprehensive Annual Financial Report of the State of Delaware (CAFR) for fiscal 2004. In particular, I would like to get the following information related to the 2004 CAFR:

1. It appears that the federal government indicates that the state of Delaware was a recipient of federal funds for 2004 in the following amounts:

|                        |   |                  |
|------------------------|---|------------------|
| Third quarter of 2003  | - | \$ 1,531,993     |
| Fourth quarter of 2003 | - | 1,776,696        |
| First quarter of 2004  | - | 1,596,802        |
| Second quarter of 2004 | - | <u>1,604,421</u> |

Total \$ 6,509,912 (see the relevant information from the U.S. Census Bureau as Attachment # 1)

2. CAFR number for the fiscal year 2004 that ended June 30, 2004 shows amount of only \$ 841,652 (see a copy as Attachment # 2) which is considerably smaller (actually 87% smaller than the US Census Bureau shows in its reports). Would you be so kind to explain what accounts for the difference?
3. On page 85 of CAFR (Notes to Financial Statements for the same period, see in Attachment # 3) the Department indicates that the financial assistance by the federal government was provided "upon compliance with terms and conditions of the grant agreements and applicable federal regulations". Would you be so kind to indicate which agencies and departments of the State received what amount of federal assistance and on which terms.

Your kind assistance in obtaining this information on a timely basis is greatly appreciated.

Sincerely,



Nina Shahin, CPA

**Attachments:**

- # 1. Copies of the "Federal Assistance Award Data System" from the US Census Bureau for the fiscal 2004 (a-d).
- # 2. Copy of the page 24 of CAFR for the fiscal 2004.
- # 3. Copy of the page 85 of CAFR for the fiscal 2004.

## Attachment # 1(a)

**Federal, State, and Local Governments**  
**Federal Assistance Award Data System**  
**2004 2nd Quarter - Summary Table**

Block To 2004 2nd Quarter FAADS  
 All of It

| DELAWARE                            |               | Dollar Amounts in Thousands |                     |              |
|-------------------------------------|---------------|-----------------------------|---------------------|--------------|
| Type of Assistance                  | Total Funding | Federal Funding             | Non-Federal Funding | Record Count |
| Block Grant                         | 1,690         | 1,690                       | -                   | 2            |
| Formula Grant                       | 222,053       | 211,813                     | 10,441              | 362          |
| Project Grant                       | 86,548        | 83,522                      | 3,025               | 248          |
| CO-OP Agreements                    | 7,398         | 5,863                       | 1,432               | 31           |
| Direct Assistance - Specified Use   | 218,631       | 216,631                     | -                   | 281          |
| Direct Assistance - Unspecified Use | 453,858       | 453,817                     | 41                  | 51           |
| Direct Loan                         | 1,118         | 1,118                       | -                   | 17           |
| Guaranteed/Reinsured Loans          | 84,170        | 82,310                      | 1,859               | 77           |
| Insurance                           | 545,531       | 545,535                     | 36                  | 4            |
| Other                               | -             | -                           | -                   | -            |
| Total                               | 1,621,237     | 1,604,421                   | 16,897              | 1,074        |

Source: U.S. Census Bureau, Governments Division  
 Last revised: July 18 2006

Census Bureau Links: Home, Search, Subjects A-Z, FAQs, Data Tools, Catalog, Census 2000, Quality, Privacy Policy, Contact Us

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## Attachment # 1(b)

**Federal, State, and Local Governments**  
**Federal Assistance Award Data System**  
**2004 1st Quarter - Quarterly Table**

Block Grant  
 Formula Grant  
 Project Grant  
 CO-OP Agreements  
 Direct Assistance - Specified Use  
 Direct Assistance - Unspecified Use  
 Direct Loan  
 Guaranteed/Uninsured Loans  
 Insurance  
 Other  
 Total

| Type of Assistance                  | Dollar Amounts in Thousands |                     | Record Count |
|-------------------------------------|-----------------------------|---------------------|--------------|
|                                     | Federal Funding             | Non-Federal Funding |              |
| Block Grant                         | 1,743                       | 1,743               | 4            |
| Formula Grant                       | 176,202                     | 174,596             | 363          |
| Project Grant                       | 30,862                      | 28,587              | 218          |
| CO-OP Agreements                    | 8,013                       | 7,554               | 35           |
| Direct Assistance - Specified Use   | 210,137                     | 210,137             | 204          |
| Direct Assistance - Unspecified Use | 424,760                     | 424,710             | 53           |
| Direct Loan                         | 3,978                       | 3,978               | 102          |
| Guaranteed/Uninsured Loans          | 107,772                     | 106,334             | 143          |
| Insurance                           | 639,173                     | 639,173             | 3            |
| Other                               | -                           | -                   | -            |
| Total                               | 1,604,447                   | 1,596,802           | 1,057        |

Source: U.S. Census Bureau, Government's Division  
 Created: June 27, 2006  
 Last revised: November 02, 2006

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## Attachment # 1(c)

**Federal, State, and Local Governments**  
**Federal Assistance Award Data System**  
**2003 4th Quarter - Summary Table**

Main

Back To 2003 4th Quarter FAFS

**DELAWARE** Dollar Amounts in Thousands

| Type of Assistance                  | Total Funding    | Federal Funding  | Non-federal Funding | Record Count |
|-------------------------------------|------------------|------------------|---------------------|--------------|
| Block Grant                         | 2,041            | 2,041            | -                   | 6            |
| Formula Grant                       | 306,356          | 287,375          | 21,984              | 458          |
| Project Grant                       | 100,207          | 102,332          | 5,874               | 508          |
| Co-Op Agreements                    | 20,627           | 8,147            | 12,480              | 53           |
| Direct Assistance - Specified Use   | 201,945          | 201,945          | -                   | 220          |
| Direct Assistance - Unspecified Use | 427,989          | 427,940          | 48                  | 58           |
| Direct Loan                         | 14,850           | 14,850           | -                   | 16           |
| Guaranteed/Uninsured Loans          | 130,984          | 128,647          | 2,336               | 73           |
| Insurance                           | 603,311          | 603,311          | -                   | 6            |
| Other                               | -                | -                | -                   | -            |
| <b>Total</b>                        | <b>1,819,421</b> | <b>1,776,088</b> | <b>42,725</b>       | <b>1,387</b> |

Source: U.S. Census Bureau, Governments Division

Created: August 4, 2004

Last revised: August 06 2004

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**Federal, State, and Local Governments**  
**Federal Assistance Award Data System**  
**2003 3rd Quarter - Summary Table**

RECORD COUNT: 437  
 BACK TO: 2003 3rd Quarter FAADS

**DELAWARE** Dollar Amounts in Thousands

| Type of Assistance         | Total Funding | Federal Funding | Non-Federal Funding | Record Count |
|----------------------------|---------------|-----------------|---------------------|--------------|
| Block Grant                | 1,936         | 1,838           | \$                  | -            |
| Formula Grant              | 227,559       | 219,051         | 8,506               | 437          |
| Project Grant              | 103,172       | 100,834         | 2,338               | 364          |
| CO-OP Agreements           | 4,346         | 7,324           | -2,978              | 32           |
| Direct Assistance          | 211,382       | 211,382         | -                   | 287          |
| Specified Use              |               |                 |                     |              |
| Direct Assistance          | 425,810       | 425,776         | 43                  | 52           |
| Unspecified Use            |               |                 |                     |              |
| Direct Loan                | 1,842         | 1,842           | -                   | 10           |
| Guaranteed/Uninsured Loans | 120,274       | 119,260         | 924                 | 69           |
| Insurance                  | 434,560       | 444,558         | -                   | 3            |
| Other                      |               |                 |                     |              |
| Total                      | 1,531,932     | 1,531,932       | 8,803               | 1,238        |

RECORD COUNT: 437  
 BACK TO: 2003 3rd Quarter FAADS

Source: U.S. Census Bureau, Governments Division

Created: June 3, 2004

Last revised: July 02, 2004

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Attachment # 2

STATE OF DELAWARE  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES  
 IN FUND BALANCES (DEPOSITS)  
 GOVERNMENTAL FUNDS  
 FOR THE YEAR ENDED JUNE 30, 2004  
 (Expressed in Thousands)

|  | General             | Federal          | Local School District | Capital Projects | Total Governmental Funds |
|--|---------------------|------------------|-----------------------|------------------|--------------------------|
| <b>REVENUES</b>  |                     |                  |                       |                  |                          |
| Personal taxes   | \$ 782,269          |                  |                       |                  | \$ 782,269               |
| Business taxes   | 1,359,569           |                  |                       |                  | 1,359,569                |
| Other tax revenue  | 240,839             |                  | \$ 280,745            |                  | 531,684                  |
| Licenses, fees, permits and fines                        | 295,379             | \$ 31            | 828                   |                  | 296,238                  |
| Rentals and sales  | 22,347              | 14               | 29,432                |                  | 51,793                   |
| Federal government                                       | 70,735              | 841,793          | 1,347                 |                  | 913,830                  |
| Interest & other investment income                       | 30,713              | 9                | 5,284                 | \$ 103           | 36,109                   |
| Other  | 253,259             |                  | 41,825                | 3                | 295,087                  |
| <b>TOTAL REVENUES</b>                                    | <b>3,055,310</b>    | <b>841,852</b>   | <b>368,461</b>        | <b>103</b>       | <b>4,265,729</b>         |
| <b>EXPENDITURES</b>                                      |                     |                  |                       |                  |                          |
| Current:   |                     |                  |                       |                  |                          |
| General government                                       | 406,179             | 16,806           |                       |                  | 422,785                  |
| Health and children's services                           | 847,605             | 560,311          |                       |                  | 1,407,976                |
| Judicial and public safety                               | 410,876             | 28,784           |                       |                  | 439,640                  |
| Natural resources and environmental control              | 131,469             | 34,491           |                       |                  | 165,960                  |
| Labor  | 27,649              | 35,007           |                       |                  | 62,716                   |
| Education  | 1,023,960           | 132,245          | 345,042               |                  | 1,501,237                |
| Payment to component unit:                               |                     |                  |                       |                  |                          |
| General government                                       | 1,952               |                  |                       |                  | 1,952                    |
| Education  | 67,900              | 2,461            |                       | 3,000            | 73,361                   |
| Capital outlay   |                     |                  |                       | 162,154          | 162,154                  |
| Debt service:  |                     |                  |                       |                  |                          |
| Principal  | 94,522              |                  |                       |                  | 94,522                   |
| Interest and other charges                               | 39,246              |                  |                       |                  | 39,246                   |
| Costs of issuance of debt                                |                     |                  |                       | 515              | 515                      |
| <b>TOTAL EXPENDITURES</b>                                | <b>3,051,408</b>    | <b>809,945</b>   | <b>345,042</b>        | <b>165,669</b>   | <b>4,372,064</b>         |
| <b>REVENUES OVER (UNDER) EXPENDITURES</b>                | <b>3,002</b>        | <b>31,907</b>    | <b>24,419</b>         | <b>(165,669)</b> | <b>(105,335)</b>         |
| <b>OTHER SOURCES (USES) OF FINANCIAL RESOURCES</b>       |                     |                  |                       |                  |                          |
| Transfers in   | 399,037             |                  | 10,849                |                  | 415,886                  |
| Transfers out  | (66,195)            | (1)              | (38,665)              | (78,469)         | (173,326)                |
| Issuance of general obligation bonds                     |                     |                  |                       | 327,218          | 327,218                  |
| Premiums on bond sales                                   |                     |                  |                       | 22,048           | 22,048                   |
| Payment to bond refunding agent                          | (79,882)            |                  |                       |                  | (79,882)                 |
| <b>TOTAL OTHER SOURCES (USES) OF FINANCIAL RESOURCES</b> | <b>262,957</b>      | <b>(1)</b>       | <b>(21,619)</b>       | <b>270,807</b>   | <b>511,944</b>           |
| Net change in fund balances                              | 266,863             | 31,806           | 2,600                 | 105,244          | 406,609                  |
| Fund balances (deficits) - beginning                     | 949,053             | (16,506)         | 111,593               | (61,639)         | 982,501                  |
| Fund balances - ending                                   | <b>\$ 1,215,912</b> | <b>\$ 15,400</b> | <b>\$ 114,193</b>     | <b>\$ 43,605</b> | <b>\$ 1,389,110</b>      |

See Accompanying Notes to the Financial Statements

Attachment # 3

The State receives significant financial assistance from the federal government in the form of grants and entitlements. The right to these resources is generally conditioned upon compliance with terms and conditions of the grant agreements and applicable federal regulations, including the expenditure of the resources for eligible purposes. Substantially all grants are subject to financial and compliance audits by the grantors. Any disallowances as a result of these audits become a liability of the State. The State does not believe that the liabilities that may result from such audits for periods through June 30, 2004 would have a material effect on its financial position or the results of operations.

The State Lottery has discharged its primary responsibility for payment of annual installments (generally 14 to 20 years) to winners of jackpots greater than \$150,000 by purchasing annuities from private insurance companies. The Lottery remains liable for future periodic payments of deferred prize obligations (approximately \$11.8 million at June 30, 2004) in the event that the annuity issuers default on their obligations.

**NOTE 18. SUBSEQUENT EVENT***DeIDOT Fund*

On October 20, 2004, the Delaware Transportation Authority issued \$167.6 million in Transportation System Senior Revenue Bonds. These serial bonds mature between July 1, 2005 and July 1, 2024 and bear average interest rates of 3.89%. A portion of these proceeds, \$73.5 million was used to advance refund \$67.4 million of senior bonds. The remaining funds were used to provide funds for capital improvements to the State's transportation system.

**NOTE 19. PRIOR PERIOD ADJUSTMENT***DELDOT Fund*

A prior period adjustment in the amount of \$2,684,000 was made to correct errors in the calculation of depreciation for certain revenue and service vehicles, restating net assets at June 30, 2003 from \$2,763,015,000 to \$2,760,331,000.

*Component Units**Delaware State Housing Authority*

Beginning net assets of the Authority as of June 30, 2003 were restated for prior period adjustments. The adjustments principally relate to the HOME Program loan modification forgiving portion of accrued interest. Net assets of the Authority as of June 30, 2003 have been restated from \$223,388,000 to \$223,074,000.



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF ACCOUNTING

820 SILVER LAKE BOULEVARD  
SECOND FLOOR, SUITE 200, (D570C)  
DOVER, DELAWARE 19904

FAX: (302) 739-1200

TELEPHONE: (302) 672-5500

July 9, 2007

Nina Shahin  
103 Shinnecock Rd.  
Dover, DE 19904

Ms. Shahin,

We are in receipt of your Freedom of Information Act (FOIA) document request form. We have reviewed your request and are providing you with an estimate of your request fee.

Our fee for this request will be based on the standard hourly rate and administrative charges, as set forth on the document request form. We estimate that our fee for these services will be approximately \$682.50 (22.5 hours and 30 copies). However, in the event that we encounter unusual circumstances that would require us to expand the scope of the request, and/or if we anticipate our fees exceeding the aforementioned fee, we will adjust our estimate, and obtain your prior approval before continuing with the request.

If you agree to the terms of this request, please sign the copy of this letter in the space provided and return the original signed letter to me, keeping a fully-executed copy for your records. We will begin the work as soon as we receive your signed copy.

Please contact me with any questions you may have.

Very truly yours,

A handwritten signature in black ink, appearing to read "Trisha Neely".

Trisha Neely, Director

**ACCEPTED AND AGREED:**

---

By: Nina Shahin

---

Date